

III. REMARKS

Claims 1, 2 and 4-11 are pending in this application. Claim 1 has been amended. Support for this amendment is generally found in Applicants' original specification, for example, at page 10. Applicants are not conceding in this application that this claim is not patentable over art cited by the Examiner, as the present claim amendment is for facilitating expeditious allowance of the claimed subject matter. Further, Applicants reserve the right to pursue the full scope of the subject matter of the original claims in a subsequent patent application that claims priority to the instant application.

Reconsideration in view of the following remarks is respectfully requested.

In the Office Action, claims 1, 2 and 4-11 are rejected under 35 U.S.C. 112, second paragraph as allegedly failing to particularly point out and distinctly claim subject matter. Further, claims 1, 2 and 4-11 are rejected under 35 U.S.C. 103(a) as being allegedly unpatentable over Choquier et al. (US Pat. No. 5774668), hereinafter "Choquier" in view of Agarwalla et al. (US Pat. No. 6985936), hereinafter "Agarwalla" in view of Coughlin (US Pub. No. 2004/0024861), hereinafter "Coughlin" in view of Yu et al. (US Pub. No. 2005/0193096), hereinafter "Yu" in view of Hurvig (US Pat. No. 5867652), hereinafter "Hurvig" and in further view of Minami et al. (US Pub. No. 2007/0253430), hereinafter "Minami." Applicants respectfully assert that the claims are in condition for allowance.

With respect to claim rejections under 35 U.S.C. 112, second paragraph, Applicants have amended claim 1 to comply with the Office's requests. Applicants submit that the amendments made regarding the terms "service availability request" and

“hostname” place claim 1 in compliance with 35 U.S.C. 112, second paragraph.

Accordingly, Applicants respectfully request withdrawal of the rejection.

Regarding claim rejections under 35 U.S.C. 103(a), currently amended claim 1 reads in part:

“...wherein the context table contains at least one entry comprising ... a last received date and time of a last received service availability token from the content server, wherein said last received service availability token contains a percentage of availability for the content server... (Claim 1)(Emphasis added).

In its rejection, the Office posits that Yu discloses “a last received date and time of a last received [response] from the content server...” (Office Action at 9)(Yu at Fig. 2 & para. 24). The section of Yu relied upon by the Office reads in part, “fields stored in document access log data can include fields such as... response time, related to the local time when cache received pull response from content provider...” (Yu at para. 24). However, Yu fails to mention a service availability token which contains a percentage availability for the content server. At best, Yu discloses a “pull response” which acts as a response to a continuous query of the content provider regarding availability. However, this pull response is generally understood to be a “yes” or a “no” response. Yu does not disclose that such a response contains information regarding a percentage of availability, only that such a response may read as “available” or “unavailable.” Pull responses generally, and the pull response specifically disclosed in Yu, both fail to contain “a percentage of availability for the content server.” (Claim 1)(Emphasis added). As such, Yu fails to disclose, *inter alia*, the above-discussed feature of claim 1. Accordingly, Applicants request withdrawal of the above-referenced rejection.

Not one of Choquier, Agarwalla, Coughlin, Hurvig and Minami overcome the deficiencies of Yu. As such, Applicants respectfully request withdrawal of rejections based upon any and all combinations of Choquier, Agarwalla, Coughlin, Hurvig, Minami and Yu.

The dependent claims are believed allowable for the same reasons stated above, as well as for their own additional features.

Applicants submit that each of the pending claims is patentable for one or more additional unique features. To this extent, Applicants do not acquiesce to the Examiner's interpretation of the claimed subject matter or the references used in rejecting the claimed subject matter. Additionally, Applicants do not acquiesce to the Examiner's analysis, combinations, and modifications of the various references or the motives cited for such combinations and modifications. These features and the appropriateness of the Examiner's combinations and modifications have not been separately addressed herein for brevity. However, Applicants reserve the right to present such arguments in a later response should one be necessary.

Should the Examiner believe that anything further is necessary in order to place the application in better condition for allowance, the Examiner is requested to contact Applicants' undersigned representative at the telephone number listed below.

Respectfully submitted,

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